

opportunity notices may include a request for federal assistance or participation, and shall be subject to the cost sharing provisions of 48 CFR 917.70.

**915.506 Agency procedures. (DOE coverage—paragraph (b))**

(b) Unless otherwise specified in a notice of program interest, all unsolicited proposals should be submitted to the Unsolicited Proposal Coordinator, Office of Procurement and Assistance, Washington, DC 20585. If the proposer has ascertained the cognizant program office through preliminary contacts with program staff, the proposal may be submitted directly to that office. In such instances, the proposer should separately send a copy of the proposal cover letter to the unsolicited proposal coordinator to assure that the proposal is logged in the Department's automated tracking system for unsolicited proposals.

**915.507 Contracting methods. (DOE coverage—paragraph (d))**

(d) DOE's cost participation policy, at 48 CFR 917.70, shall be followed in determining the extent to which the DOE will participate in the cost for the proposed effort.

**Subpart 915.8—Price Negotiation**

**915.804-3 Exemptions from or waiver of submission of certified cost or pricing data.**

(b)(2)(iii) The Heads of Contracting Activities, for contracts estimated to be within the limits of their delegated authority, may approve the finding required by FAR 15.804-3(b)(2)(iii) that the lowest price received is unreasonable.

(c)(8) The Heads of Contracting Activities, for contracts estimated to be within the limits of their delegated authority, may approve the finding required by FAR 15.804-3(c)(8) that the price is unreasonable even though it is a catalog or market price.

(g) The Heads of Contracting Activities, for contracts estimated to be within the limits of their delegated authority, may, without power of redelegation, authorize individual or class exemptions for exceptional cases in accordance with FAR 15.804-3(g).

(i) The Heads of Contracting Activities, for contracts estimated to be within the limits of their delegated authority, may, without power of redelegation, waive the requirements for cost or pricing data under the circumstances set forth in FAR 15.804-3(i) provided that any such waivers are promptly reported to the Procurement Executive.

[49 FR 11955, Mar. 28, 1984, as amended at 59 FR 9105, Feb. 25, 1994]

**915.804-6 Procedural requirements.**

(e) The Heads of Contracting Activities, for contracts estimated to be within the limits of their delegated authority, may, without power of redelegation, waive the requirements for cost or pricing data under the circumstances set forth in FAR 15.804-6(e) provided that any such waivers are promptly reported to the Procurement Executive.

(i) The Heads of Contracting Activities, for contracts estimated to be within the limits of their delegated authority, may, without power of redelegation, waive the requirements for subcontractor cost or pricing data under the circumstances set forth in FAR 15.804-6(i), provided that any such waivers are promptly reported to the Procurement Executive.

[49 FR 11955, Mar. 28, 1984, as amended at 59 FR 9105, Feb. 25, 1994]

**915.805-5 Field pricing support.**

(a)(1) Field pricing reports as prescribed in FAR 15.805-5(a)(1) are not required for the negotiation of DOE contract prices or modifications thereof. The term "field pricing report" refers to the Department of Defense (DOD) system for obtaining a price and/or cost analysis report from a cognizant DOD field level contract management office wherein requests for the review of a proposal submitted by an offeror are initiated and the recommendations made by the various specialists of the management office are consolidated into a single report that is forwarded to the office making the contract award for use in conducting negotiations. In the DOE, such review activities, except for reviews performed by professional auditors, are expected to

be accomplished by pricing support personnel located in DOE Contracting Activities. The DOE contracting officer shall formally request the assistance of appropriate pricing support personnel, other than auditors, for the review of any proposal that exceeds \$500,000, unless the contracting officer has sufficient data to determine the reasonableness of the proposed cost or price. Such pricing support may be requested for proposals below \$500,000, if considered necessary for the establishment of a reasonable pricing arrangement. Contracting officers, however, are not precluded by this section from requesting pricing assistance from a cognizant DOD contract management office, provided an appropriate cross-servicing arrangement for pricing support services exists between the DOE and the servicing agency.

(c)(1) When an audit is required pursuant to 915.805-70, "Audit as an aid in proposal analysis," the request for audit shall be sent directly to the Federal audit office assigned cognizance of the offeror or prospective contractor. When the cognizant agency is other than the Defense Contract Audit Agency or the Department of Health and Human Services, and an appropriate interagency agreement has not been established, the need for audit assistance shall be coordinated with the Office of Policy, within the Headquarters procurement organization.

(2) The request for audit shall establish the due date for receipt of the auditor's report and in so doing shall allow as much time as possible for the auditor's review.

(e)(6) Copies of technical analysis reports prepared by DOE technical or other pricing support personnel shall not normally be provided to the auditor. The contracting officer or the supporting price, cost, or financial analyst at the contracting activity shall determine the monetary impact of the technical findings.

[49 FR 11955, Mar. 28, 1984, as amended at 59 FR 9105, Feb. 25, 1994; 60 FR 30004, June 7, 1995]

#### **915.805-70 Audit as an aid in proposal analysis.**

(a) When a contract price will be based on cost or pricing data (FAR

15.804) submitted by the offerors, the DOE contracting officer or authorized representative shall request a review by the cognizant Federal audit activity prior to the negotiation of any contract or modification including modifications under advertised contracts in excess of:

(1) \$500,000 for a firm fixed-price contract or a fixed-price contract with economic price adjustment provisions; or

(2) \$1,000,000 for all other contract types, including initial prices, estimated costs of cost-reimbursement contracts, interim and final price redeterminations, and target and settlement of incentive contracts.

(b) The requirement for auditor reviews of proposals which exceed the thresholds specified in paragraph (d) above may be waived at a level above the contracting officer when the reasonableness of the negotiated contract price can be determined from information already available. The contract file shall be documented to reflect the reason for any such waiver, provided, however, that independent Government estimates of cost or price shall not be used as the sole justification for any such waiver.

[49 FR 11955, Mar. 28, 1984; 49 FR 38950, Oct. 2, 1984; 60 FR 47308, Sept. 12, 1995]

### **Subpart 915.9—Profit**

#### **915.903 Contracting officer responsibilities.**

(d)(1)(ii) The statutory limitations on profit and fees as set forth in FAR 15.903(d)(1) (i), (ii) and (iii) shall be followed, except as exempted for DOE architect-engineer contracts covering Atomic Energy Commission (AEC) and Bonneville Power Administration (BPA) functions. Pursuant to section 602(d) (13) and (20) of the Federal Property and Administration Services Act of 1949, as amended, those former AEC functions, as well as those of the BPA, now being performed by DOE are exempt from the 10 and 6 per centum cost and fee restrictions on contracts for architect-engineer services.

(d)(2) Waivers to apply the maximum cost-plus-award-fee percentage in 915.972(a)(3) in those situations that shall result in potential fees exceeding

the limitations cited in FAR 15.903(d)(1) (i), (ii), and (iii) shall be forwarded to the Procurement Executive.

(f) In cases where a change or modification calls for substantially different work than the basic contract, the contractor's effort may be radically changed and a detailed analysis of the profit factors would be a necessity. Also, if the dollar amount of the change or contract modification is very significant in comparison to the contract dollar amount, a detailed analysis should be made.

(g) The estimated costs on which the maximum fee is computed pursuant to the statutory limitations set forth in FAR 15.903(d)(1) shall include facilities capital cost of money when this cost is included in cost estimates.

[49 FR 11955, Mar. 28, 1984, as amended at 59 FR 9105, Feb. 25, 1994]

#### **915.905 Profit-analysis factors.**

A profit/fee analysis technique designed for a systematic application of the profit factors in FAR 15.905–1 provides contracting officers with an approach that will ensure consistent consideration of the relative value of the various factors in the establishment of a profit objective and the conduct of negotiations for a contract award. It also provides a basis for documentation of this objective, including an explanation of any significant departure from it in reaching a final agreement. The contracting officer's analysis of these prescribed factors is based on information available prior to negotiations. Such information is furnished in proposals, audit data, performance reports, preaward surveys and the like.

#### **915.970 DOE structured profit and fee system.**

This section implements FAR 15.902 and 15.905.

##### **915.970–1 General.**

(a) *Objective.* It is the intent of DOE to remunerate contractors for financial and other risks which they may assume, resources they use, and organization, performance and management capabilities they employ. Profit or fee shall be negotiated for this purpose; however, when profit or fee is determined as a separate element of the con-

tract price, the aim of negotiation should be to fit it to the acquisition, giving due weight to effort, risk, facilities investment, and special factors as set forth in this subpart.

(b) *Commercial (profit) organization.* Profit or fee prenegotiation objectives for contracts with commercial (profit) organizations shall be determined as provided in this subpart.

(c) *Nonprofit organizations.* It is DOE's general policy to pay fees in contracts with nonprofit organizations other than educational institutions and governmental bodies; however, it is a matter of negotiation whether a fee will be paid in a given case. In making this decision, the DOE negotiating official should consider whether the contractor is ordinarily paid fees for the type of work involved. The profit objective should be reasonable in relation to the task to be performed and the requirements placed on the contractor.

(d) *Educational institutions.* It is DOE policy not to pay fees under contracts with educational institutions.

(e) *State, local and Indian tribal governments.* Profit or fee shall not be paid under contracts with State, local, and Indian tribal Governments.

#### **915.970–2 Weighted guidelines system.**

(a) To properly reflect differences among contracts and the circumstances relating thereto and to select an appropriate relative profit/fee in consideration of these differences and circumstances, weightings have been developed for application by the contracting officer to standard measurement bases representative of the prescribed profit factors cited in FAR 15.905 and paragraph (d) of this section. This is a structured system, referred to as weighted guidelines. Each profit factor or subfactor, or component thereof, has been assigned weights relative to their value to the contract's overall effort. The range of weights to be applied to each profit factor is also set forth in paragraph (d) of this section. Guidance on how to apply the weighted guidelines is set forth in 915.970–8.

(b) Except as set forth in 915.970–4, the weighted guidelines shall be used in establishing the profit objective for negotiation of contracts where cost analysis is performed.